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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,225	04/13/2005	Helmut Winterling	12810-00072-US	4572
30678 7590 02/28/2011 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
LISTVOYB, GREGORY				
ART UNIT		PAPER NUMBER		
1765				
MAIL DATE		DELIVERY MODE		
02/28/2011		PAPER		

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HELMUT WINTERLING, JURGEN DEMETER,
and KURT KREMPEL

Appeal 2010-011675
Application 10/531,225
Technology Center 1700

Before LORA M. GREEN, JEFFREY N. FREDMAN, and
STEPHEN WALSH, *Administrative Patent Judges*.

WALSH, *Administrative Patent Judge*.

DECISION ON APPEAL¹

This is an appeal under 35 U.S.C. § 134(a) involving claims to a polyamide comprising a compound having certain structural features, to a process for preparing the polyamide, and to the polyamide prepared by a

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

certain process. The Patent Examiner rejected the claims on the ground of obviousness. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Claims 1, 3, and 5-18, which are all the pending claims, are on appeal.

Claims 1, 5 and 17 are representative and read as follows:

1. A polyamide comprising a compound which includes at least one hydroxyl group and has chemical bonding by way of an amide group to the end of the polymer chain,
 - wherein the compound which includes at least one hydroxy group is a linear, unbranched alkanemonocarboxylic acid which includes at least one terminal hydroxyl group,
 - wherein the compound which includes at least one hydroxy group is present in the range from 0.001 to 2 mol%, based on 1 mole of amide groups of the polyamide, and
 - wherein the unbranched alkanemonocarboxylic acid has the formula $\text{HO} - (\text{CH}_2)_n - \text{COOH}$, wherein $n = 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,$ or 15 .
5. A process for preparing the polyamide as claimed in claim 1 comprising providing monomers suitable for forming a polyamide and a linear, unbranched alkanemonocarboxylic acid which includes at least one terminal hydroxy group, and polymerizing the monomers in the presence of the unbranched alkanemonocarboxylic acid.
17. The polyamide as claimed in claim 1 prepared by a process comprising:
 - providing monomers or oligomers selected from an arylaliphatic or aliphatic lactam, aminocarboxylic acids or aminocarbonitriles;
 - providing an unbranched alkanemonocarboxylic acid having at least one terminal hydroxyl group; and
 - polymerizing the monomer or the oligomers in the presence of the unbranched alkanemonocarboxylic acid to provide a polyamide that is end-capped with an unbranched alkane having at least one terminal hydroxyl group.

The Examiner rejected the claims as follows:

- claims 1, 3, 7-9, and 11-16 under 35 U.S.C. § 103(a) as unpatentable over Hoyt² and Lombardi;³ and
- claims 5, 6, 17, and 18 under 35 U.S.C. § 103(a) as unpatentable over Hoyt, Brubaker,⁴ and Lombardi.

OBVIOUSNESS

After considering all the evidence and arguments in the Appeal Brief and the Examiner's Answer, we conclude that the Examiner's findings and conclusions are supported by the evidence. (Ans. 6-10.) We adopt the Answer's findings and conclusions. We find Appellants' arguments unpersuasive for the reasons the Examiner provided at Ans. 10-14. We adopt the Answer's analysis as our own, and affirm the rejections. Claims 3, 7-9 and 11-16 have not been argued separately and fall with claim 1; claims 6, 17 and 18 have not been argued separately and fall with claim 5. 37 C.F.R. § 41.37(c)(1)(vii).

SUMMARY

We affirm the rejection of claims 1, 3, 7-9, and 11-16 under 35 U.S.C. § 103(a) as unpatentable over Hoyt and Lombardi.

We affirm the rejection of claims 5, 6, 17, and 18 under 35 U.S.C. § 103(a) as unpatentable over Hoyt, Brubaker, and Lombardi.

² Matthew Buckingham Hoyt et al., EP 0 409 093 A2, published Jan. 23, 1991.

³ Frank G. Lombardi et al., US 3,663,511, issued May 16, 1972.

⁴ Merlin Martin Brubaker, US 2,264,293, issued Dec. 2, 1941.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

cdc

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